

Steven Mitnick, Esq.
Admitted *Pro Hac Vice*
Mitnick & Malzberg, P.C.
PO Box 429
29 Race Street
Frenchtown, New Jersey 08825
(908) 996-3716
Counsel for Plaintiff

Melissa A. Peña, Esq. (MP-3320)
Norris, McLaughlin & Marcus
875 Third Avenue, 18th Floor
New York, New York 10022
(212) 808-0700
Local Counsel for Plaintiff

SYSCO FOOD SERVICES OF METRO
NEW YORK, LLC,

Plaintiff,

v.

JEKYLL & HYDE, INC.; DEACON BRODY
MANAGEMENT INC. d/b/a JEKYLL &
HYDE GREENWICH VILLAGE and
DONALD R. FINLEY; BAYVILLE
ENTERTAINMENT INC. d/b/a BAYVILLE
ADVENTURE PARK; SIXTH AVENUE
FOOD SERVICES LTD.; NEW CASTLE
FOODS INC.; DAVEY JONES LOCKER
MANAGEMENT, INC. d/b/a SHIP WRECK
TAVERN; and 186 WEST 4TH ST.
MANAGEMENT CO. INC. d/b/a OLIVERS
BAR & GRILL,

Defendants.

UNITED STATES DISTRICT
COURT
FOR THE SOUTHERN DISTRICT
OF NEW YORK

Civil Case No. 08-cv-02958

**NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT
ON COUNTS I, II, III, IV, V, VI AND VII OF THE COMPLAINT
PURSUANT TO FED. R. CIV. P. 56**

PLEASE TAKE NOTICE that upon the annexed Declaration of Charnelle
Harvey, sworn to on July 24, 2009, the Declaration of Melissa A. Peña, sworn to on July

24, 2009, the Declaration of Steven Mitnick, sworn to on July 22, 2009, and all exhibits annexed thereto, plaintiff's Statement pursuant to Local Rule 56.1, the accompanying Memorandum of Law in Support, and all prior pleadings and proceedings in this action, plaintiff, Sysco Food Services of Metro New York LLC ("Sysco"), will move this Court, at a date and time to be determined, pursuant to Federal Rule of Civil Procedure 56 seeking judgment on Counts I, II, III, IV, V, VI and VII of the Complaint against defendants and granting such other and further relief as this Court deems just and proper.

NOTICE IS FURTHER GIVEN that responses to the Motion, if any, shall be served on Norris McLaughlin & Marcus, P.A., 875 Third Avenue, 18th Floor, New York, New York, 10022.

Dated: July 24, 2009
 New York, New York

NORRIS MCLAUGHLIN & MARCUS, P.A.

/s/ Melissa A. Peña
 Melissa A. Peña (MP-3320)
 875 Third Avenue, 18th Floor
 New York, New York 10022
 (212) 808-0700
Local Counsel for Plaintiff, Sysco Food Services of Metro New York, LLC
 -and-
 Steven Mitnick, Esq.
Admitted Pro Hac Vice
 Mitnick & Malzberg, P.C.
 29 Race Street
 Frenchtown, New Jersey 08825
 (908) 996-3716
Co-Counsel for Plaintiff, Sysco Food Services of Metro New York, LLC

To: Lawrence Rader, Esq.
 225 Broadway, Suite 400
 New York, New York 10007
 (Via ECF)